

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

JOHN W. H. COX,

Civil No. 06-3021 (PJS/JSM)

Petitioner,

v.

ORDER ADOPTING  
REPORT AND RECOMMENDATION

JOAN FABIAN,

Respondent.

---

John W. H. Cox, *pro se*.

Thomas R. Ragatz, MINNESOTA ATTORNEY GENERAL'S OFFICE, 445 Minnesota Street, Suite 1800, St. Paul, MN 55101, for respondent.

This matter is before the Court on petitioner John W. H. Cox's objections to the Report and Recommendation of Magistrate Judge Janie S. Mayeron. The Court has reviewed the record de novo, as required by 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), and adopts the Report and Recommendation.

Judge Mayeron recommends dismissing Cox's 28 U.S.C. § 2254 petition for habeas relief as time-barred under 28 U.S.C. § 2244(d). Cox claims that the state disposed of certain unspecified legal papers, thus rendering him unable to file his petition before November 15, 2000, the undisputed date upon which the statute of limitations period for Cox to seek federal habeas relief expired. Cox does not explain what these papers contained that could possibly have prevented him from filing his petition for nearly seven years. The Court agrees with Judge Mayeron that this case does not present the sort of "extraordinary circumstances" that would warrant equitable tolling. *See Jihad v. Hvass*, 267 F.3d 803, 805 (8th Cir. 2001).

ORDER

Based on all the files, records, and proceedings herein, the Court ADOPTS the Report and Recommendation of the Magistrate Judge [Docket No. 5]. Petitioner's petition for writ of habeas corpus [Docket No. 1] is DENIED, and this action is DISMISSED WITH PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: September 21, 2006

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge